

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DANIEL PORTUGAL,	)	
	)	
Plaintiff(s),	)	No. C 08-3311 CRB (PR)
	)	
v.	)	ORDER
	)	
T. FELKER, et al.,	)	(Docket # 1 & 4)
	)	
Defendant(s).	)	
_____	)	

On January 16, 2008, plaintiff, a prisoner at High Desert State Prison ("HDSP") in Susanville, California, filed a pro se civil rights complaint for damages under 42 U.S.C. § 1983 alleging that, while incarcerated at Salinas Valley State Prison ("SVSP") in Soledad, California, prison dentists "botched" several dental surgical procedures. The court found that plaintiff's allegations state a cognizable § 1983 claim for damages against the named SVSP defendants and ordered the United States Marshal to serve them. See Portugal v. Grannis, No. C 08-0276 CRB (PR), slip op. at 2 (N.D. Cal. May 27, 2008) (order of service).

1 On June 30, 2008, plaintiff filed a motion for a temporary restraining order  
2 ("TRO")/preliminary injunction in civil case 08-0276.

3 On July 9, 2008, the clerk inadvertently filed a copy of the motion as new  
4 civil case 08-3311. Good cause appearing therefor, civil case 08-3311 is  
5 DISMISSED as improvidently opened.

6 The clerk shall close civil case 08-3311 and terminate all pending motions  
7 (see docket # 1 & 4) as moot. No filing fee is due in this improvidently opened  
8 action.

9 SO ORDERED.

10 DATED: August 20, 2008

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13 CHARLES R. BREYER  
14 United States District Judge  
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UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

DANIEL PORTUGAL,  
Plaintiff,

Case Number: CV08-03311 CRB

**CERTIFICATE OF SERVICE**

v.

T FELKER et al,

Defendant.

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I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on August 20, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Daniel Portugal V-51068  
High Desert State Prison  
B4-113  
P.O. Box 3030  
Susanville, CA 96127

Dated: August 20, 2008

Richard W. Wieking, Clerk  
By: Barbara Espinoza, Deputy Clerk